REMARKS

Claims 70-136 are pending in the application, of which all claims stand rejected and objected to.   Claims 70 and 109 have been amended above for the reasons set forth below.   In view of the above claim amendments and following arguments, reconsideration of the claim rejections and objections is respectfully requested.

CLAIM OBJECTIONS

"Claims 70-136 are objected to because of the following informalities: Claims 70, 109 limitation 'that incident does not have a corresponding match' in both occurrences, is not a positive limitation but only require the ability to so perform." Applicant respectfully disagrees.

Applicant respectfully submits that the above-quoted phrase present in claims 70 and 109, when read in context, is part of a positive limitation and does not "only require the ability to so perform."   The final paragraph of claim 70 reads: "generating an alert for the entity when the time reference for a selected required incident is reached and the selected required incident does not have a corresponding match."   Thus, in claim 70 the positive act being performed is "generating an alert for an entity."   The remainder of the quoted paragraph merely recites the test that is applied to determine when the alert is generated.   That is, the alert is generated when the "time reference... is reached" and "the selected required incident does not have a corresponding match."   The phrase "the selected required incident does not have a corresponding match" is part of the test condition and is not an action to be performed. Consequently, it is not appropriate to view such a term as "not a positive limitation" or one that "only require[s] the ability to so perform."

The objected-to phrase represents a very standard way to claim a positive act ("generating an alert") in response to a test condition.   There is nothing ambiguous or uncertain about claim 70 and 109.   Indeed, the MPEP makes clear that "negative limitations" are permitted: "The current view of the courts is that there is nothing inherently ambiguous or uncertain about a negative limitation. So long as the boundaries of the patent protection sought are set forth definitely, albeit negatively, the claim complies with the requirements of 35 U.S.C. 112, second paragraph." MPEP 2100-228.   Accordingly, claim 70 is allowable in its

present form, and Applicant respectfully requests that the Examiner withdraw the objection to claim 70, as well as claims 71-108, which depend variously therefrom.

Similarly, the above arguments apply equally well to independent claim 109, which recites in relevant part "an alert generator for generating an alert for the entity when the time reference for a selected required incident is reached and the selected required incident does not have a corresponding match." Accordingly, claim 109 is allowable in its present form, and Applicant respectfully requests that the Examiner withdraw the objection to claim 70, as well as claims 109-136, which depend variously therefrom.

REJECTIONS UNDER 35 U.S.C. 112

Claims 70 and 109 stand "rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention" on several grounds.

First, the Office Action states that "the phrase 'thereby' in both occurrences, renders the claim vague and indefinite." Applicant respectfully disagrees. However, in the interest of advancing prosecution of the application, Applicant has amended claims 70 and 109 above to rewrite the phrase "thereby generating a match" as "and [for] generating a match at each interval when the presence of said entity is detected in one of said zones."

Second, the Office Action states that "the limitation 'the matches' in both occurrences, lacks antecedent basis...". Applicant respectfully disagrees, since the feature of generating a match is recited to occur at "interval**s**", plural. Thus, it is understood that a plurality of matches may be made. However, in the interest of advancing prosecution of the application, Applicant has amended claims 70 and 109 above to rewrite the phrase "thereby generating a match" as "and [for] generating a match *at each interval* when the presence of said entity is detected in one of said zones." (Emphasis Added.) Thus, since matches are generated "at each interval" it is again explicit that multiple matches are being generated.

Third, the Office Action states that "the limitation 'thus' in both occurrences, renders the claim vague and indefinite." Applicant respectfully disagrees. However, in the interest of advancing prosecution of the application, Applicant has amended claims 70 and 109 above to delete the term "thus-".

Fourth, the Office Action states that "the limitation 'that' in both occurrences, renders the claim vague and indefinite." Applicant respectfully disagrees, because the phrase "that incident" clearly refers back to the immediately preceding occurrence of the word "incident." However, in the interest of advancing prosecution of the application, Applicant has amended claims 70 and 109 above to recite "for a *selected* required incident is reached and that *the selected* required incident…". (Emphasis Added.) Applicant respectfully submits that each of the above claim amendments does not change the scope of the claim as originally filed, but claims the same subject matter using alternative language.

In summation, Applicant notes that the proper standard evaluating whether the claim language particularly points out and distinctly claims the subject matter "is an objective one because it is not dependent on the views of applicant or any particular individual, but is evaluated in the context of whether the claim is definite – i.e., whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art." MPEP 2171, page 2100-216, Sept 2007 ed.

> In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the Examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph. See, e.g., *Solomon v. Kimberly-Clark Corp.*, 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000). MPEP 2173.02, page 2100-218, Sept 2007 ed.

Applicants respectfully submit that the use of above-noted terms in the rejected claims does not render such claims indefinite within the meaning of the statute and does serve the notice function required by 35 U.S.C. 112, second paragraph, as set forth in <u>Solomon</u>. Apparently, such language did not render the subject matter of the rejected claims so indeterminate that the Examiner could not search and apply the relevant prior art.

For the above reasons, Applicant respectfully submits that the rejection of claims 70-136 is not proper under 35 U.S.C. 112, second paragraph and, therefore, should be withdrawn. Nonetheless, Applicant has amended claims 70 and 109, not to overcome the rejections under 35 U.S.C. 112, but to efficiently advance prosecution of this case. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of independent claims 70 and 109, as well as claims 71-108 and 110-136, that variously depend therefrom.

REJECTIONS UNDER 35 U.S.C. 103(a)

Claims 70-97 and 102-132 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kovach... in view of Cash...".   In addition, claims "98-101, 133-136 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kovach... in view of Cash is applied to claim 70 above, and in further view of McManus...".

Applicant agrees with the Examiner that Kovach fails to disclose generating an alert for the entity when the time reference for a required incident is reached and that incident does not have a corresponding match, as required by claims 70 and 109.   However, Applicant respectfully submits that the Examiner is wrong to suggest that Kovach discloses creating/storing "a plurality of required incidents for said entity, each required incident having a place reference and a time reference associated with it, the required incidents including a final incident for which the place reference is the destination and the time reference is a predetermined time", as also required by claims 70 and 109.

Kovach considers time and place only in a passive sense of recording when an entity reaches a given point. Kovach does not propose having a set of required incidents for comparing with these passive detections of time and presence. The Examiner refers to page 3, [0027] of Kovach, but this paragraph merely discloses passive recording of a passenger's current location.

Applicant further respectfully submits that the Examiner is also wrong to suggest that Kovach discloses registering correspondences between generated matches and required incidents. This must be so, because, as shown above, Kovach does not disclose creating/storing a plurality of required incidents for the entity. The Examiner refers to page 2, [0022] of Kovach, but this paragraph merely discloses authenticating a passenger's identity. No comparison is made between a required time and place and a current time and place.

Thus to summarize, creating/storing a set of time and place references as per claims 70 and 109 is not a natural extension of Kovach's teaching. Kovach does not consider the time criticality of the process which it describes, which is a fundamental difference between the present invention and Kovach. Furthermore Kovach cannot disclose the registration of

correspondences between actual time and place recordings, and time and place references, because it has no reference data to compare time and place recordings to.

Turning to Cash, this discusses (see e.g. page 3, [0034]) raising an alert to travel industry entities (e.g. airlines) when an inanimate piece of baggage is determined not to be where it is expected. However, this is different to sending the alert to the deviating baggage. It makes no sense to send an alert to a bag (an inanimate object) as doing so will not help recover the bag in anyway! In contrast claims 70 and 109 require an alert to be sent to a person (e.g., "generating an alert _for the entity_", "the entity being a person". Emphasis added.) when that person is not where they should be at a given time.

Therefore, even if Cash is combined with Kovach (and Applicant does not admit that the combination is obvious), the features of claims 70 and 109 would not be derived by the skilled person without the benefit of inventive effort. For example, neither Kovach nor Cash disclose or suggest sending an alert to a person (or any other entity) who is late. Thus independent claims 70 and 109 are novel and inventive over Kovach and Cash.

Likewise dependent claims 71-108 and 110-136 are also patentable for at least the reason that such claims respectively depend from allowable claims 70 and 109, hence the Examiner's rejections of the dependent claims in view of Cash and/or McManus are, as a consequence, moot.

Nonetheless Applicant notes in respect of claims 71 and 110, that although Kovach discloses at page 3, [0024] displaying information to a passenger, this is not an alert for the passenger when a time reference and is reached and the position of the passenger does not correspond with a place reference (as required by claims 70 and 109). Rather it is the presentation of information to a passenger based on the happy co-incidence that the passenger is in the vicinity of a display at the time, so the display can change to display relevant information for that person.

In view of the foregoing amendments and remarks, it is believed that the claims in this application are now in condition for allowance. Early and favorable reconsideration is respectfully requested. The Examiner is invited to telephone the undersigned in the event that a telephone interview will advance prosecution of this application.

Respectfully submitted,

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